



THE CITY OF NEW YORK
LAW DEPARTMENT

MICHAEL A. CARDOZO
Corporation Counsel

100 CHURCH STREET
NEW YORK, N.Y. 10007-2601

BRIAN T. HORAN
Assistant Corporation Counsel
Affirmative Litigation Division
Phone: 212.788.1267
Fax: 212.788.1633
bhoran@law.nyc.gov

October 17, 2011

VIA EMAIL (gkushner@goetzfitz.com)

Gary M. Kushner, Esq.
Goetz Fitzpatrick LLP
One Penn Plaza
Suite 4401
New York, NY 10119

*Re: OTR Media Group, et al. v. City of New York
Adv. Pro. No. 1-11-1448 (ESS)*

Dear Mr. Kushner:

This responds to your letter of October 14. I was not in the office on October 14, and you did not copy my colleague, Alan Kleinman.

In arguing that the City's motion was not served sufficiently in advance of the October 25 return date, you misread the applicable rule. Rule 9006-1(c) of the Local Bankruptcy Rules does not require additional days to be added to the minimum service requirement in the case of service by email. Indeed, the rule makes no mention of email service. Accordingly, service of the motion papers on October 11, 14 days before the return date of October 25, satisfies the requirements of Rule 9006-1.

Nor does the timing of the City's motion in any way constitute "practice in a manner which interfere[s] with a colleague's religious observation," as you assert. As I understand it, between October 11 and October 18, there are four days, exclusive of October 11, on which Jewish observance does not proscribe work. This provides you, Mr. Coleman, and your client with ample time to prepare opposition papers. I note that you do not claim strict religious observance.

I also note that the motion, which relates to the existing Stipulation and Order, raises issues that were discussed in Court on September 28, 2011 and can hardly be perceived as surprising. Moreover, the issue of the continuance of the Stipulation and Order is time sensitive.

Notwithstanding the propriety of the Law Department's motion practice, as a matter of courtesy, we will not raise an objection if you serve your opposition by October 19.

Very truly yours,



Brian T. Horan

Cc: Ronald D. Coleman, Esq.
Alan H. Kleinman, Esq.